of the disability, such impediment not being known by them to exist at any time before its removal. *Poole* v. *People,* 24 Colo. 510, 52 Pac. 1025, 65 Am. St. Rep. 245; *Land* v. *Land, supra.* In the light of these rules, the marriage in question should have been held a valid common-law marriage in Illinois, as the disability did not exist there. And the element of marital consent, after the change of residence, is found in the fact that the parties intended their cohabitation in Illinois to be matrimonial. There was thus created a valid present agreement, and the fact that the parties erred in their idea of what was necessary to make that agreement binding in law, it would seem, should make no difference in its legal effect, since the necessary essentials of the agreement were actually present. It is true that in prosecutions for bigamy, the presumption of innocence in the second marriage will overcome a mere presumption of validity of the first. *Green* v. *State,* 21 Fla. 403, 58 Am. Rep. 670; *Hiler* v. *People,* 156 Ill. 511, 41 N. E. 181, 47 Am. St. Rep. 221. But the doctrine does not apply where the first marriage is in fact entered into. *Parker* v. *State,* 77 Ala. 47, 54 Am. Rep. 43; *People* v. *Mendenhall,* 119 Mich. 404, 78 N. W. 325, 75 Am. St. Rep. 408.

NEGLIGENCE—IMPUTED NEGLIGENCE—DEATH BY WRONGFUL ACT.—An infant, while in the custody of its father, was killed by the negligence of the defendant. The father was actively negligent in allowing the infant to be exposed to the danger. The father brought an action as administrator of the infant. *Held,* he cannot recover. *Ohnesorge* v. *Chicago City Ry. Co.* (Ill.), 102 N. E. 819. See NOTES, p. 318.

OIL AND GAS WELLS—DAMAGES—PERCOLATING WATERS.—The defendant dug a well on his land and after abandoning it, removed the casing and failed to plug it up. Water collected in it and permeated the surrounding sand, injuring the plaintiff's oil well. *Held,* although the case was one of novel impression, there is a right of action at common law for damages. *Atkinson* v. *Virginia Oil & Gas Co.* (W. Va.), 79 S. E. 647.

While apparently, as stated in the decision, an application of the law to a novel state of facts, yet the decision follows as the logical extension of well established principles. It is settled that a person has a right to a reasonable use of percolating water on his own land. See NOTES, p. 229. But by the great weight of authority he has no right, by a use of his own land, to pollute the percolating waters of another. *Ballard* v. *Tomlinson,* L. R. 29 Ch. Div. 115; *Pensacola Gas Co.* v. *Pebley,* 25 Fla. 381, 5 So. 593; *Kinnaird* v. *Standard Oil Co.,* 89 Ky. 468, 12 S. W. 937, 25 Am. St. Rep. 545, 7 L. R. A. 451. There seems no reason why this rule should not apply, as in the principal case, to percolating oil or gas.

PARTNERSHIP—SURVIVING PARTNER—RIGHT TO COMPENSATION.—A partnership for the practice of law was dissolved by death. The partnership assets included considerable business in the nature of pending litigation. The surviving partner prosecuted this litigation to its termination. In a suit for an accounting the survivor claimed the right to compen-

sation for this extra labor. *Held,* compensation should be allowed. *Jones* v. *Marshall* (Idaho), 135 Pac. 841.

When a partnership is dissolved by death, it is the duty of the surviving partner to wind up the business of the firm as expeditiously as possible, and the general rule is that for this he is entitled to no compensation. *Comstock* v. *McDonald,* 126 Mich. 142, 85 N. W. 579. This rule, however, is subject to some exceptions. Compensation is justly allowed in cases involving non-professional partnerships where the business is so involved that the winding up thereof entails extraordinary labor, perplexity and skill. *Hite* v. *Hite,* 40 Ky. (1 B. Mon.) 177; *Cameron* v. *Fransisco,* 26 Ohio St. 190; *Maynard* v. *Richards,* 166 Ill. 466, 46 N. E. 1138. Therefore in cases of professional partnerships, where the profits of the firm are the results solely of the skill and labor of the partners, the survivor should be compensated for the expenditure of that extra labor and skill which is not ordinarily required in the winding up of other partnerships and which is required to bring a professional partnership to the most advantageous termination. But this compensation should be only for the extra labor over and above that ordinarily required; and where there is no such extra labor no compensation should be granted. *Consul* v. *Cummings,* 24 App. D. C. 36; *Starr* v. *Case,* 59 Ia. 491, 13 N. W. 645.

POLICE POWER—SEGREGATION OF RACES.—An ordinance providing for separate residential sections for white and colored inhabitants of the city of Baltimore was passed under a general grant of police power from the state authorizing municipalities to pass ordinances for the maintenance of the peace, health, good government and welfare of the city. *Held,* the ordinance is invalid because unreasonable under such a general grant. *State* v. *Gurry* (Md.), 88 Atl. 546.

This holding was based on the ground that the ordinance in question, since it was retroactive in effect, ignored vested rights which existed at the time of the passage of the ordinance. Under a similar grant of authority in Virginia, a segregation ordinance of the town of Ashland was held to be reasonable by a *nisi prius* court. *Town of Ashland* v. *Coleman,* 19 VA. LAW REG. 427. Where a municipal ordinance is passed under a general grant of authority from the state, the reasonableness of its details may be questioned by the courts. *State* v. *Inhabitants of the City of Trenton,* 53 N. J. L. 132, 20 Atl. 1076, 11 L. R. A. 410. Statutes can be declared void for unconstitutionality alone while ordinances can be questioned as to both their constitutionality and reasonableness. But where an ordinance is passed in pursuance of a specific delegation of power from the state it has the effect of a statute, only its constitutionality may be questioned. *Haynes* v. *Cape May,* 50 N. J. L. 55, 13 Atl. 231. It will be seen from these considerations that a decision against the validity of a municipal ordinance passed under a general grant of authority does not necessarily involve the constitutionality of such an ordinance. Assuming then that the passage of such an ordinance has been